

Appl. No. 10/596,085
Attorney Docket No. BIC-027.C1

Response to Non-Final Office Action
Mailed October 28, 2010

Remarks

Claims 57 and 59-65 remain in the present application for the Examiner's review and consideration. Claims 1-56 and 58 were previously canceled.

Claim 57 has been amended to recite that the step of "attaching the valve to the inner liner by press-fitting [is] such that the second opening of the inner liner is placed outward toward outer casing by the valve body for improving the retention of the inner liner inside the outer casing." Support for this amendment can be found in the specification on page 10, lines 8-14.

New dependent claim 66 is added to state that "a portion of the inner liner is held by the valve and a portion of the outer casing proximate the first and second openings." Support for this amendment can be found on page 10, lines 8-9 ("snap-fit 46 of inner liner is inserted into nozzle 18 until it is locked to ledge 48" of outer casing 12)(see also page 8, lines 21-24 and Figure 4).

No new matter has been added by these amendments.

Claims 57-59 stand rejected as being obvious under 35 U.S.C. § 103 (a), in light of U.S. Publication No. 2002/0197522 to Lawrence *et al.* (hereinafter Lawrence) and newly cited U.S. Patent 5,390,814 to Christine *et al.* (hereinafter Christine) and in further view of newly cited U.S. 5,830,599 to Okamoto *et al.* (hereinafter Okamoto). Claims 60-61 are rejected as being obviousness in light of Lawrence, Christine and Okamoto in view of U.S. Patent 6,021,930 to de Pous (hereinafter de Pous). Claims 62-65 are rejected for obviousness in light of Lawrence, Christine and Okamoto in view of U.S. Patent 5,244,615 to Hobbs (hereinafter Hobbs).

Claim 57 is the only independent claim and is rejected as being obvious over Lawrence, Christine and Okamoto. The deficiencies of the Lawrence reference are well documented in Applicants' response filed on 27 October 2010, and for brevity are not repeated here. The examiner agrees that Lawrence does not disclose whether the valve is attached to the inner liner by press-fitting and whether the valve attached is attached by heat to the outer casing. (See final Office Action dated 21 January 2011 at p. 4.)

However, the Examiner states that Christine teaches a press-fitting connection between the valve/fitment (16) and the inner liner citing column 5, lines 60-65. (See final Office Action dated 21 January 2011 at p. 4.) Applicants respectfully traverse this statement. Christine actually

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teaches a press-fitting connection between the alleged valve/fitment (16) and sealing sleeve (38) and not to the inner liner (12), as shown below.

fitment 16 and is sealed to the pouch 12. The sleeve 38 60 may be sealed to the fitment 16 by various methods including direct injection molding, adhesive bonding, welding, or press fitting. Each method provides a se-

The connection between sleeve (38) and inner liner (12) as disclosed in column 5 of Christine is actually by heat and not by press-fitting, contrary to the Examiner's statement, as shown below.

a sealing sleeve 38 of heat sealable plastic, such as low 55 density polyethylene, that is compatible from a heat sealing standpoint with the film of the pouch 12 is provided

Hence, Christine cannot remedy the deficiencies of Lawrence. For this reason alone, claim 57 is patentable over the cited art.

Furthermore, the Examiner relies on Okamoto on column 4 [sic, 5], line 39 for the teaching of heat sealing, e.g., ultrasonic welding, of the valve to the outer casing. However, Okamoto also teaches that the materials of cover 4, valve 9 and case 3 are made from the "same material" for "ultrasonic bonding." (column 5, lines 36-39), as shown below.

Then, the cover 4 and the safety valve 9 arrangement is made of the same material as the case 3 and the cover 4 are bonded together to form an integral structure by a bonding method such as an ultrasonic melting method or the like to form a hermetic seal, a single cell thus being fabricated. 40

This teaches away from Christine, because Christine teaches that the valve/fitment (16) are made from PETG or PBT in column 5, as shown below,

In providing an improved packaging 10, the fitment 45 16 is constructed from a high barrier material such as PETG or polybutylene terephthalate (PBT). Such materials allow the fitment 16 to have high barrier properties equivalent to the film used to construct the pouch 12, in contrast to typical fitments. 50

Unfortunately, such material is not easily heat sealable to the flexible plastic material, e.g., heat sealable olefins, that comprises the pouch 12. Pursuant to the

And the material for the outer casing (14) is a "paperboard," as shown in column 4:

40 box 14, as shown in FIG. 1, may be constructed of a rigid paperboard. The box 14 includes a front wall 18, a

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Since the valve material taught in Christine is a “not easily heat sealable” material and the outer casing taught in Christine is made from paper, Christine teaches away from a combination with Okamoto. Christine further teaches in column 5, as quoted above, that the materials selected for the valve/fitment 16 to have high barrier properties similar to inner liner (12) are “unfortunately ... not easily heat sealable.” This further teaches away from sealing by heat, as claimed in claim 57. Claim 57 is patentable for these additional reasons.

Lawrence discloses in paragraph [0093] that its outer casing can be made from anodized aluminum and stamped sheet metal, which are difficult to melt due to the high melting temperature of metals, and polycarbonate, but fails to teach the material of the valve 88a. Hence, Lawrence cannot resolve the differences between Christine and Okamoto.

To further distinguish claim 57 from the cited art, it has been amended to require that the press-fitting connection causes the second opening of the inner liner is to be placed outward toward outer casing by the valve body for improving the retention of the inner liner inside the outer casing, as discussed above. None of the prior art of record discloses this feature, and for this additional reason, claim 57 is patentable.

Because claim 59 depends on allowable independent claim 57 and adds further limitations thereto, it is patentable over the cited art. The Applicants reserve the right to further support the patentability of these dependent claims should that become necessary.

Claims 60-65 all depend upon allowable independent claim 57 and add further limitations thereto, and therefore are patentable at least for that reason alone. Moreover, the additional references of de Pous and Hobbs do not overcome the deficiencies of Lawrence, Christine or Okamoto, as discussed above. Applicants reserve the right to further support the patentability of these dependent claims, should that become necessary.

New claim 66 is added to more fully describe the invention. Claim 66 depends on claim 57 and recites further limitation therefrom, and is patentable at least for that reason alone. Furthermore, none of the cited art discloses “a portion of the inner liner is held by the valve and a portion of the outer casing proximate the first and second openings.” Applicants reserve the right to further support the patentability of this dependent claim, should that become necessary.

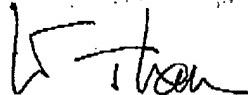
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Prompt and favorable consideration of this Amendment is respectfully requested. All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

A Request for Continued Examination and a Petition for a one month extension of time, as well as, payment of the required fee is submitted herewith. If any further fees are required, the Commissioner may charge appropriate fees to The H.T. Than Law Group, Deposit Account No. 50-1980, and if any additional extension of time is required, it is hereby petitioned for under 37 C.F.R. § 1.136.

Respectfully submitted,



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